

REMARKS

Claims 13-14 have been canceled herein. Claims 1-5 and 9 have been amended herein. No new claims have been added herein. Therefore, claims 1-5, 9-10 and 12 are pending and under active consideration.

Claims 1, 2 and 4 stand rejected under 35 U.S.C. 102(b) "as being anticipated by Eremeev et al., and CA:DN 11548589 for the reasons set forth in the previous office action mailed on 09/29/03." In support of the rejection, the Patent Office states the following:

Applicants' claims relate to aziridine-1-hydroxymethyl compounds of formula (I). Eremeev et al. anticipate the genus of amended claim 1, wherein R is a bond and n is 2 and each of R₁ and R₂ is H or CH₃. See compounds IV and IX on page 369.

Applicants respectfully traverse the subject rejection. As best understood by Applicants, the Patent Office is apparently contending that Eremeev et al. teaches one or more compounds that fall within the scope of formula I, namely, compounds in which R is a bond, n is 2 and each of R₁ and R₂ is H or CH₃. However, as can be seen, claim 1 does not include compounds in which each of R₁ and R₂ is H or CH₃.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

The Patent Office has also presented the following objection in the outstanding Office Action:

The amendment filed on 03/31/04 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: "--and a linker moiety capable of bonding--" (claim 1); "a linker moiety that is a divalent radical, derived from a molecule" (claims 2 and 3) and new claim 14 "--said linker moiety is substituted with at least one

substituent selected from the group consisting of cyano, hydroxy, lower C₁₋₆alkyl, lower C₁₋₆alkoxy--"

Without acquiescing in the propriety of the objection, Applicants have amended claims 1-3 so that "a linker moiety" is no longer recited therein and have deleted claim 14.

Accordingly, the subject objection has been overcome and should be withdrawn.

Claim 9 stands rejected under 35 U.S.C. 112, first paragraph, "because the specification, while being enabling for tumors or cancerous diseases such as Colon, Stomach, Lung, Breast, Kidney and Uterus, does not reasonably provide enablement for tumors and cancerous diseases in general."

Without acquiescing in the propriety of the rejection, Applicants have amended claim 9 so that it is directed at tumors and cancerous diseases of the colon, stomach, lung, breast, and uterus. The Patent Office has conceded that the specification is enabling with respect to tumors and cancerous diseases of the colon, stomach, lung, breast and uterus. Therefore, the rejection is moot and should be withdrawn.

Claims 13-14 stand rejected under 35 U.S.C. 112, second paragraph; however, in view of Applicants' cancellation herein of claims 13-14, the rejection is moot and should be withdrawn.

Lastly, Applicants respectfully request that the Patent Office, in its next correspondence, acknowledge that perfection of the foreign priority claim has been achieved.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is

required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on November 24, 2004

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